REMARKS

I. TELEPHONIC INTERVIEW

Applicant would like to thank the Examiner for graciously taking time to discuss the Office Action dated September 18, 2002.

II. STATUS OF THE CLAIMS

Claims 1-62 are pending in this application, with claims 1, 20 and 41 being written as independent claims. Original claims 1-12, 17-29, 34-41 and 46-62 stand rejected under 35 U.S.C. §§ 102(a) & 102(e), and original dependent claims 13-16, 30-33 and 42-45 stand rejected under 35 U.S.C. §103(b). Entry of the amendments, reconsideration and withdrawal of the rejection, and allowance of the claims are respectfully requested.

III. THE CLAIMS AS AMENDED ARE PATENTABLE

Original claims 1-12, 17-29, 34-41 and 46-62 were rejected under 35 U.S.C. §§ 102(a) & 102(e) as anticipated by U.S. Patent No. 5,914,941 to Janky ("Janky '941 Patent"). Similarly, original dependent claims 13-16, 30-33 and 42-45 were rejected under 35 U.S.C. §103(b) as being obvious over the Janky '941 Patent. As discussed below, applicant respectfully submits that the claims as amended are patentable over the Janky '941 Patent. Entry of the amendment, and reconsideration and withdrawal of the rejection are respectfully requested.

Independent claims 1, 20 and 41 have been amended to recite that: (1) the received blocks of data temporarily stored in the buffer are processed without storing the received blocks of data in a long term memory medium; and (2) the processed successive blocks of data are deleted or overwritten following playback. No new matter has been added by this

amendment. Applicant's specification details some of the advantages of transferring blocks of data to a portable device, storing the blocks of data in a buffer, playing the blocks in an output, and deleting the blocks following playback. [*See, e.g.,* specification at page 2, line 22 through page 3, line 9].

In contrast, the Janky '941 Patent teaches that the selected program material is downloaded for long term storage in a hard drive **50** for use when and where the user desires. [*See* Janky '941 Patent, col. 5, lines 28-35 ("The device can record audio programming digitally and can play back audio programming, where such programming has been digitized and stored in data files using a variety of compression/decompression algorithms. Audio programming is stored digitally on a non-volatile medium, such as a hard drive, or in a flash EPROM, or other solid state non-volatile memory."); col. 5, lines 41-43 ("the device herein uses a different storage medium, such as a hard drive"); 62-65 ("receiving the program material via automatic download for storage in a hard drive; playback of the program material when and where the user desires"); col. 6, lines 23-29 ("The device is able to record audio programming digitally and play back audio programming that has been digitized, where such audio information is stored in data files using a variety of known compression/decompression algorithms. Audio programming is stored digitally on a non-volatile medium, such as a hard drive, or in a flash EPROM, or other solid state non-volatile memory."); col. 6, lines 66-67 ("The device herein disclosed is similar to a dedicated personal computer, complete with a hard drive ...."); col. 7, lines 10-12 ("receiving the program material via automatic download for storage in a hard drive; Playback of the program material when and where the user desires ...."); col. 8, lines 59-67 ("The invention herein resides in a portable storage/playback system **44** that ... store[s] the program material, and enable[s]

selective playback of the stored program material in a mobile environment, such as an automobile. Once program materials are stored on the storage medium **50**, a playback system **52** permits the stored program material to be played back in real time ...."); col. 9, lines 3-6 ("More particularly, the system **44** comprises a digital data storage means, such as a hard disk drive **50** that is in communication with a universal communications interface **58** via an input data buffer **60**."); col. 12, lines 36-38 ("The transfer of the selected files is enabled and, upon receipt by the system, the files are stored on the hard drive."); col. 12, lines 60-61 ("A control algorithm supervises conversion of program material files that are stored on the hard drive ...")].

The Janky '941 Patent neither teaches nor suggests the process of transferring a multimedia file over a wireless network, where the multimedia file is stored temporarily in a buffer just prior to being processed, played, and then deleted or overwritten, without being stored in a long term memory medium, such as a hard drive. Accordingly, applicant respectfully submits that independent claims 1, 20 and 41 as amended—and all claims dependent thereon—are patentable over the Janky '941 Patent. Entry of the amendments, and reconsideration and withdrawal of the rejection are respectfully requested.

IV. DEPENDENT CLAIMS 13-16, 30-33 AND 42-46 ARE NON-OBVIOUS

With respect to the §103 rejection of dependent claims 13-16, 30-33 and 42-46, the Examiner acknowledged that the Janky '941 Patent "does not teach monitoring the buffer 60 in order to adjust the transmission rate." [9/18/02 Office Action, at 4]. Instead, official notice was sought with respect to whether it was known in the prior art to monitor a buffer within a device to adjust data transmission rate, without any citation to a prior art reference or identification of a motivation to combine such undisclosed prior art with the Janky '941 Patent. Accordingly, for this

reason, as well as those set forth above with respect to independent claims 1, 20 and 41, applicant respectfully submits that dependent claims 13-16, 30-33 and 42-46 are patentable over the Janky '941 Patent.

CONCLUSION

For the reasons discussed above, applicant respectfully submits that all of the pending claims are patentable and in condition for allowance, which is respectfully requested.

In the event that a telephone conference would facilitate examination of this application in any way, the Examiner is invited to contact the undersigned at the telephone number provided below.

Favorable consideration is respectfully requested.

A petition and fee for a one month extension of time to respond is enclosed.

The Commissioner is hereby authorized to charge any additional fees that may be required for the timely consideration of this amendment under 37 C.F.R. §§ 1.16 and 1.17, or credit any overpayment, to Deposit Account No. 13-4500, Order No. 3037-4178.

Respectfully submitted,

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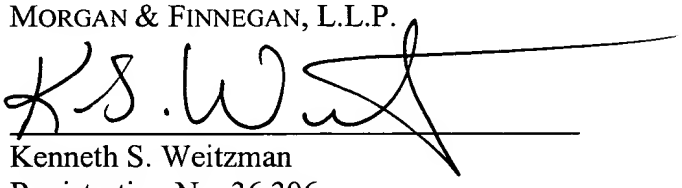
Dated: January 9, 2003 By: 

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MARKED-UP VERSION OF AMENDED CLAIMS

1. (Amended) A device for receiving and playing a multimedia file from a multimedia server over a wireless telecommunications network, comprising:

a microprocessor for controlling the operation of the device;

a transceiver operatively connected to the microprocessor for receiving successive blocks of data from the streamed multimedia file over the wireless telecommunication network;

a buffer operatively connected to the microprocessor for temporarily storing the received blocks of data from the streamed multimedia file , wherein the temporarily stored blocks of data are processed without storing the received blocks of data in a long term memory medium; and

an output operatively connected to the microprocessor for playing the processed successive blocks of data from the streamed multimedia file , wherein the processed, successive blocks of data are deleted by the device following playback.

20. (Amended) A system for streaming a multimedia file over a wireless telecommunications network to a wireless device, comprising:

a multimedia server operatively connected to the wireless telecommunications network, the multimedia server including a database for storing the multimedia file and adapted to stream successive blocks of data from the multimedia file over the wireless telecommunications network in a digitized and compressed format; and

a wireless device operatively connected to the wireless telecommunications network for receiving and playing the streamed multimedia file, the wireless device comprising:

a microprocessor for controlling the operation of the wireless device;

a transceiver operatively connected to the microprocessor for receiving the successive blocks of data streamed over the wireless telecommunications network;

a buffer operatively connected to the microprocessor for temporarily storing the received blocks of data from the streamed multimedia file , wherein the temporarily stored blocks of data are processed without storing the received blocks of data in a long term memory medium; and

an output operatively connected to the microprocessor for playing the successive blocks of data from the streamed multimedia file, wherein the microprocessor is programmed to decode and decompress the blocks of data prior to playing through the output , and the decoded and decompressed blocks of data are deleted by the device following playback.

41. (Amended) A method for streaming a multimedia file over a wireless telecommunications network to a wireless device, comprising:

storing one or more multimedia files in a multimedia server operatively connected to the wireless telecommunications network;

selecting a desired multimedia file;

streaming successive blocks of data from the desired multimedia file over the wireless telecommunications network in a digitized and compressed format;

receiving the successive blocks of data streamed over the wireless telecommunications network at a wireless device;

temporarily storing the received blocks of data from the streamed multimedia file in a buffer in the wireless device , wherein the temporarily stored blocks of data are processed

without storing the received blocks of data in a long tem memory medium;

decoding and decompressing the blocks of data temporarily stored in the buffer;

successively playing the decoded and decompressed blocks of data from the streamed multimedia file through an output in the wireless device , wherein the decompressed blocks of data are deleted by the device following playback.